

Memorandum of Decision: 01-20200397
Individual Income Tax
For the Tax Year 2012

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Memorandum of Decision.

HOLDING

Individual failed to sufficiently support her claim that the Department improperly overstated her capital gains. Individual sufficiently supported her claim that the Department incorrectly taxed interest on US Treasury Bonds and omitted tax credits for which Individual qualified.

ISSUES

I. Individual Income Tax - Burden of Proof.

Authority: IC § 6-3-1-3.5; IC § 6-8.1-5-1; *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); IRC § 61; IRC § 62.

Taxpayer protests the Department's denial of modifications to Federal adjusted gross income.

II. Individual Income Tax - Interest Income from US Treasury Bonds

Authority: IC § 6-3-1-3.5; IC § 6-8.1-5-1; *Hammond Lead Prod., Inc. v. State of Ind. Tax Comm'rs*, 575 N.E.2d 998 (Ind. 1991); IRC § 62; 31 USC § 3124

Taxpayer protests the Department's taxation of interest income on US Treasury Bonds.

III. Individual Income Tax - Applicability of Tax Credits.

Authority: IC § 6-3.1-20-4; IC § 4-10-22-4.

Taxpayer protests the Department's denial of tax credits.

STATEMENT OF FACTS

Taxpayer is an Indiana resident who timely filed an Indiana income tax return for tax year 2012. After reviewing its records and cross-referencing with federal information maintained by the Internal Revenue Service ("IRS"), the Indiana Department of Revenue ("Department") found a discrepancy in the reported amount of adjusted gross income ("AGI"). The Department recalculated Taxpayer's liability and issued a proposed assessment, which was paid in June 2017. Taxpayer filed an amended Indiana income tax return in April of 2020, requesting a refund. The Department denied the refund request and the Taxpayer protested this denial. An administrative hearing was held and this decision results. Other facts will be provided as necessary.

I. Individual Income Tax - Burden of Proof.

DISCUSSION

Taxpayer amended her return and reduced her Federal adjusted gross income ("FAGI") by adjusting her cost basis on the sale of stock to reduce capital gains. In its letter denying the claimed refund, the Department explained that this change did not match its own records or federal information maintained by the IRS.

As a threshold issue, it is the Taxpayer's responsibility to establish that the existing tax assessment is incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the [D]epartment's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong

rests with the person against whom the proposed assessment is made." *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 485 n.9 (Ind. Tax Ct. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010).

Indiana defines the term adjusted gross income "as [it is] defined in Section 62 of the Internal Revenue Code" with Indiana-specific modifications. IC § 6-3-1-3.5(a). Section 62 of the Internal Revenue Code defines adjusted gross income as "gross income minus . . . deductions." IRC § 62(a). Gross income is, in turn, defined as "all income from whatever source derived." IRC § 61(a).

As support for her position, Taxpayer provided the Department with an amended 2012 Form 1040 showing the adjustment to stock basis. However, she did not provide an updated IRS Record of Account, or any other documentation to show that the IRS agreed with her figures on the amended federal return. Critically, Taxpayer also provided no documentation supporting her claimed basis for the stock. Without this documentation, the Department is unable to determine whether the Taxpayer's adjusted FAGI is correct. Because Taxpayer did not provide sufficient documentation to show that the Department incorrectly relied on prior Federal adjusted gross income calculations, Taxpayer failed to meet her burden under IC § 6-8.1-5-1.

FINDING

Taxpayer's protest is respectfully denied.

II. Individual Income Tax - Interest Income from US Treasury Bonds

DISCUSSION

Taxpayer's amended Indiana return shows an increase in deductions from income tax. Taxpayer claims this increase is due to improper taxation of interest income from US Treasury Bonds.

As previously discussed, Indiana defines the term adjusted gross income as it is defined in IRC § 62, with some modifications. IC § 6-3-1-3.5(a). One of those modifications is to remove from federal adjusted gross income "[any] income that is exempt from taxation . . . by the Constitution and statutes of the United States." IC § 6-3-1-3.5(a)(1). This statute thereby incorporates 31 USC § 3124(a) which explains that "[s]tocks and obligations of the United States Government are exempt from taxation by a State or political subdivision of a State." That exemption includes interest income paid by the US Treasury on bonds. *Hammond Lead Prod., Inc. v. State of Ind. Tax Comm'rs*, 575 N.E.2d 998, 1000-01 (Ind. 1991).

Along with her protest, Taxpayer provided multiple Form 1099-INT documents. These show more deductible interest income from US Treasury Bonds than originally allowed by the Department. Because the Taxpayer has provided documentation sufficient to support her claim, she has met her burden under IC § 6-8.1-5-1. The Department shall increase her Indiana deductions to include this additional interest income.

FINDING

Taxpayer's protest is sustained.

III. Individual Income Tax - Applicability of Tax Credits.

Taxpayer amended her return to include two additional tax credits, which the Department disallowed upon its initial examination.

Indiana law provides a tax credit at IC § 6-3.1-20-4 for individuals who pay property tax on a homestead if:

- (1) the individual's earned income for the taxable year is less than eighteen thousand six hundred (\$18,600); and
- (2) the individual pays property taxes in the taxable year on a homestead that:
 - (A) the individual:
 - (i) owns; or
 - (ii) is buying under a contract that requires the individual to pay property taxes on the homestead, if the

contract or a memorandum of the contract is recorded in the county recorder's office; and
(B) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

IC § 6-3.1-20-4(a) (2012).

Taxpayer provided property tax bill and payment records showing that she paid property tax on a homestead in a qualifying county. Documentation provided with her Indiana income tax return demonstrated that her earned income was below the required statutory income threshold. Therefore, Taxpayer has demonstrated that she qualified for this tax credit.

Indiana also allows for the authorization of an automatic tax credit to redistribute excess income reserves. IC § 4-10-22-4(1) explains that, to qualify for this automatic credit, a taxpayer:

(A) must have filed an Indiana resident individual adjusted gross income tax return for the taxpayer's taxable year ending in the calendar year immediately preceding the calendar year in which a determination is made under section 1 of this chapter that the state has excess reserves; and

(B) must have adjusted gross income tax liability for the taxpayer's taxable year ending in the calendar year in which a determination is made under section 1 of this chapter that the state has excess reserves.

Indiana did have excess reserves in the 2012 tax year which were distributed as an automatic credit. Taxpayer provided documents along with her protest which show that she timely filed extensions for the 2011 and 2012 tax years and subsequently filed her individual income tax returns timely in each of those years. Her individual income tax returns also show that she had an adjusted gross income tax liability in 2012. Therefore, Taxpayer has demonstrated that she meets the requirements and should receive an automatic tax credit for the 2012 tax year.

FINDING

Taxpayer's protest is sustained.

SUMMARY

For the reasons discussed above, Taxpayer's protest is denied regarding the modification to FAGI and sustained regarding the modification to Indiana deductions and tax credits. The Department will make appropriate adjustments to its records and issue a partial refund.

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